

CHAPTER 21

WASTE MILITARY MUNITIONS

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## CHAPTER 21

### WASTE MILITARY MUNITIONS

#### SECTION 1: INTRODUCTION

21100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for managing waste military munitions (WMMs).

#### 21101. APPLICABILITY

1. See paragraph 1101

2. Each installation should obtain copies of its respective State and local WMM management requirements. Each commander of a deployed unit shall be aware of new or additional WMM management requirements.

3 Marine Corps military munitions management activities in foreign countries shall comply with all Department of Defense (DOD) policies and standards and applicable Marine Corps Orders, primarily reference (a), as amended or superceded.

21102. BACKGROUND. Under Federal regulations implementing reference (b), WMM may be considered hazardous waste (HW) military munitions and subject to regulation by the U.S. Environmental Protection Agency (EPA) or a state and/or locality. Consequently, should the Marine Corps fail to properly manage WMM that are determined to be HW under the EPA and/or State and/or local HW military munitions management requirements; Federal, State, and/or local regulators may have the authority to issue the Marine Corps Notices of Violation and assess fines and penalties.

#### 21103. FEDERAL REQUIREMENTS

1. Resource Conservation and Recovery Act (RCRA) of 1976 (42 U.S.C. 6901 et seq.). Congress enacted RCRA to protect human health and the environment from hazards associated with solid waste (SW) and HW generation, transportation, treatment, storage, and disposal. Major RCRA revisions resulted from Congressional passage of the Federal Facility Compliance Act (FFCA).

2. FFCA, Section 107; P.L. 102-386, 1992; 42 U.S.C. 3004(y). This Act amended RCRA in 1992 with an emphasis on strengthening EPA's authority to enforce RCRA at Federal facilities. FFCA section 107, added as section 3004(y) of RCRA, required the EPA, in consultation with DOD, to promulgate regulations identifying when military munitions (both chemical and conventional) become HW. It also required the EPA and DOD to provide for the safe storage, transportation, and disposal of such wastes.

3. Military Munitions Rule (MR): 40 CFR part 266, Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Systems - Subpart M Military Munitions, 12 February 1997. The MR became effective on 12 August 1997, to clarify the applicability of RCRA to military munitions and establish the regulatory roles for Federal, State, and/or local regulators and the military regarding HW military munitions management. In promulgating the MR, the EPA chose to regulate military munitions as a special type of RCRA HW. The MR generally applies to military munitions use on operational ranges (i.e., inactive and active ranges). The MR does not apply to used or fired military munitions remaining on closed, transferring, or transferred (CTT) ranges.

#### 21104. REGULATORY CONCEPTS

1. Definition of WMM. Because the MR addresses when conventional military and chemical munitions become SW, and potentially HW, it has a significant impact on the manner in which military munitions are managed on installations. Important MR concepts are discussed below.

a. SW Military Munitions. Under section 202 of reference (c), the EPA has established specific conditions under which military munitions are considered regulatory SW.

(1) Use for Intended Purpose. Military munitions are not considered regulatory SW and; therefore, cannot be regulatory HW, if they are:

(a) Used for their intended purpose (e.g., training of infantry, aviation ordnance personnel, ammunition technicians, explosive ordnance disposal personnel, and/or combat engineers);

(b) Used during research, development, testing, and/or evaluation; and/or

(c) Destroyed during operational range clearance.

(2) Unused SW Military Munitions. Unused military munitions are considered regulatory SW; and, therefore, potentially a regulatory HW if they are:

(a) Abandoned by disposal (e.g., buried or landfilled), burned, incinerated, or treated prior to disposal;

(b) Removed from storage for the purpose of disposal or treatment prior to disposal;

(c) Deteriorated, leaking, or are damaged to the point that they can no longer be put back into serviceable condition and cannot be reasonably recycled or used for other purposes; and/or

(d) Declared a regulatory SW by a Designated Disposition Authority (DDA).

(3) Unused Military Munitions. Unused military munitions are not considered regulatory SW if they are being repaired, reused, recycled, reclaimed, disassembled, reconfigured, or otherwise subject to material recovery activities.

(4) Used or Fired SW Military Munitions. Military munitions that have been used or fired are considered regulatory SW and potentially regulatory HW when they are:

(a) Transported off-range for the purpose of treatment or disposal;

(b) Recovered, collected, and disposed by burial either on or off-range; and/or

(c) Fired, land off-range, and are not promptly rendered safe or retrieved.

2. HW Military Munitions Accumulation and Storage. Compliance with reference (d), as implemented by reference (e); reference (a); and reference (f); all as amended or superceded, are mandatory, regardless whether HW military munitions are accumulated on site for less than 90 days or are stored under a conditional exemption (CE) or in a permitted storage facility,

provided such accumulation or storage complies with applicable Federal, State, and/or local HW management requirements.

a. Conditional Exemption (CE) for HW Military Munitions Storage. Under section 205 of reference (c) or to the extent authorized by applicable State and/or local requirements, storage of non-chemical HW military munitions may be granted a CE from otherwise applicable HW storage requirements as per reference (b) provided the HW military munitions are stored in accordance with reference (d), as implemented by references (e), (a), and (f); all as amended or superceded. Waivers and exemptions to reference (d) are not authorized for units storing HW military munitions under a CE. When removed from CE storage for transportation to a non-military owned or operated treatment, storage, or disposal facility, HW military munitions become subject to applicable regulatory HW transportation requirements as per reference (b). In addition to any applicable Federal, State, and/or local HW management requirements, the following requirements must be met for CE unit storage:

(1) Notification. Each installation's environmental office shall, within 90 days after the date each unit is first used to store HW military munitions under CE, notify the appropriate Federal, State, and/or local regulatory authorities of the location of any CE storage unit used to store HW military munitions.

(2) Inventories and Records. Each installation shall conduct an annual inventory and quarterly inspections of HW Military Munitions stored under a CE to ensure compliance with DOD Explosive Safety Board storage standards. Records of the inventories and inspections shall be maintained in accordance with SSIC 8011. Records of inventories and inspections shall also be shared with and maintained by the installation environmental office and be available for inspection. Records shall also contain the following:

(a) The type of HW military munitions stored by standard nomenclature, Lot Number, Federal Supply Class, National Stock Number, DOD Identification Code, and condition code;

(b) The quantity of each type of HW military munitions stored;

(c) The date that each type of military munitions were identified as HW;

(d) The initial storage date for each type of HW military munitions;

(e) The storage location for each type of HW military munitions (e.g., building number or storage pad, and grid coordinates);

(f) The disposition of each type of HW military munitions (e.g., destroyed, demilitarized, and transported for treatment and/or disposal) and the date of action; and

(g) For all HW military munitions shipped off site for treatment and/or disposal, the HW transporter(s) name(s) and the name(s) of the receiving facilities.

(3) Releases. Any loss, theft, and/or unpermitted or uncontrolled detonation, release, discharge, or migration of HW military munitions and/or munitions constituents out of any CE storage unit that creates a risk to human health or the environment shall result in the immediate loss of a CE for those HW military munitions. Installations shall report any such occurrence to cognizant Federal, State, and/or local regulatory authority within 24 hours after discovery. If the initial report is by telephone, a written report shall be provided to cognizant Federal, State, and/or local regulatory authority no later than five days after discovery.

(4) Closure of Units Storing HW Military Munitions Under a CE. In addition to complying with requirements for closure of ammunition storage facilities as per reference (d), as amended or superceded, installations shall notify cognizant Federal, State, and or local regulatory authority, in writing, at least 45 days before permanent closure of a CE storage unit. Installations shall, within 90 days after completing closure activities, forward a certification of closure signed by the appropriate military authority and an independent professional engineer to cognizant Federal, State, and or local regulatory authority.

(5) CE Loss and Reinstatement. Failure to comply with applicable Federal, State, and/or local requirements for CE storage may result in loss of the CE. Reinstatement of the CE is possible after corrections are made to ensure compliance with

applicable CE storage requirements and an application for reinstatement is approved or deemed approved by cognizant Federal, State, and or local regulatory authority. Installation environmental offices are responsible for notifying cognizant Federal, State, and or local regulatory authority regarding CE use, loss, and reinstatement.

b. Other HW Accumulation and Storage. Pending off-site transportation for treatment and/or disposal, if HW military munitions cannot be stored under a CE, then they must be accumulated (e.g., satellite or 90-day accumulation) as HW or be stored in a facility that may accept the waste according to its RCRA storage facility permit. Chapter 9 of this Manual discusses regulatory HW storage requirements as per reference (b). In general, in addition to any applicable Federal, State, and/or local HW storage facility construction and operation, preparedness and prevention, emergency planning, recordkeeping, reporting, monitoring, corrective action, closure, and post-closure standards or requirements, HW military munitions storage shall comply with the requirements of references (a) and (d), as amended or superceded.

### 3. HW Military Munitions Transportation

a. General. Subject to more stringent State and/or local requirements, the MR does not regulate HW military munitions transportation occurring within an installation boundary. In addition, regulatory HW transportation requirements as per reference (b) are not generally applicable to intra-installation transportation on a public or private right-of-way that is within or immediately alongside an installation boundary.

b. Conditional Exemption (CE) for Transportation. In addition to any applicable Federal, State, and/or local requirements applicable to the transportation of HW military munitions, transportation of non-chemical HW military munitions may be managed under a CE from HW transporter requirements as per reference (b) provided the following conditions are met:

(1) The HW military munitions are transported in accordance with DOD and Department of Transportation shipping controls applicable to military munitions transportation;



(2) The HW military munitions are transported from a military-owned or operated installation to a military-owned or operated treatment, storage, or disposal facility;

(3) If HW military munitions undergoing CE transportation are lost or stolen or if the CE transportation fails to comply with CE transportation conditions and the failure may endanger health or the environment, the loss, theft, and/or CE transportation violation must be orally reported to the cognizant Federal, State, and or local regulatory authority within 24 hours after discovery; and

(4) If HW military munitions undergoing CE transportation are lost or stolen or if the CE transportation fails to comply with CE transportation conditions and the failure may endanger health or the environment, the loss, theft, and/or CE transportation violation must be reported, in writing, to the cognizant Federal, State, and or local regulatory authority within 5 days after discovery. The written submission shall contain a description of the circumstances concerning the loss, theft, and/or CE transportation violation. Installation transportation, ammunition, and environmental offices shall maintain copies of each submission.

c. Loss and Reinstatement of a CE. Failure to comply with applicable Federal, State, and or local CE transportation requirements may result in loss of the CE. Reinstatement of the CE is possible after corrections are made that ensure compliance with all applicable CE requirements, and an application for reinstatement is approved or deemed approved by cognizant Federal, State, and or local regulatory authority. Installation environmental offices are responsible for notifying cognizant Federal, State, and or local regulatory authority regarding CE use, loss, and reinstatement.

d. Transportation Requirements When a CE is Not Applicable. A CE is not applicable to HW military munitions transportation to or from a non-military-owned or operated installation when such transportation requires transportation on a public or private right-of-way that is not within or immediately alongside an installation boundary. In addition to ensuring any applicable Federal, State, and/or local HW transportation standards are met, installations utilizing non-CE HW military munitions transportation shall comply with HW transportation requirements in

references (a), (g), and (h), all as amended or superceded, and ensure the following requirements are met:

(1) The installation environmental office shall be contacted before the HW military munitions are transported to or from the installation;

(2) The HW military munitions transporter shall use Hazardous Waste Manifests; and

(3) The installation environmental office shall sign all hazardous waste manifests.

4. Explosives or Munitions Emergency Response. Under the MR, explosives or munitions emergency responses are not subject to RCRA generator, transporter, and permit requirements. An explosives or munitions emergency is a situation where there is an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an Explosive Ordnance Disposal (EOD) technician.

5. Training Requirements

a. General Training. Installation environmental office personnel and personnel involved with handling, storage, transportation, and treatment of WMM (e.g., explosive ordnance disposal (EOD) and ammunition supply point (ASP) personnel) shall receive initial and refresher HW management training. Installations shall document that all personnel receive the required training. The training shall be equivalent to the training requirements applicable to:

(1) 29 CFR part 1910.120, Hazardous Waste Operations and Emergency Response;

(2) 40 CFR part 260, Hazardous Waste Management System, General;

(3) 40 CFR part 261, Identification and Listing of Hazardous Waste;

(4) 40 CFR part 262, Standards Applicable to Generators of Hazardous Waste;

(5) 40 CFR part 263, Standards Applicable to Transporters of Hazardous Waste;

(6) 40 CFR part 264, Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, with Special Attention Paid to Subpart X, Miscellaneous Units; and Subpart EE, Hazardous Waste Munitions and Explosives Storage;

(7) 40 CFR part 266, Subpart M, Military Munitions; and

(8) 49 CFR parts 171-180, Standards for Transportation of Hazardous Materials.

b. Recordkeeping. Units shall maintain their environmental training records and have them available for inspection. The aforementioned records must be retained on board and cannot be destroyed. The installation environmental office may maintain copies of all training records. Military Occupational Specialty Individual Training Standard (ITS) records shall be maintained in accordance with reference (i), as amended or superceded.

#### 21105. TERMS AND DEFINITIONS

1. Ammunition. A device charged with explosives, propellants, pyrotechnics, or initiating composition or chemical material for use in connection with defense or offense, including demolitions, training, ceremonial, or non-operational purposes.

2. HW. A SW that is hazardous, as defined in section 3 of reference (j) or by applicable State and/or local requirements.

3. HW Military Munitions. Military munitions that meet the definition of HW as defined in section 3 of reference (j) or by applicable and/or local requirements.

4. Military Munitions. Defined in section 10 of reference (k) or by applicable State and/or local requirements. The Federal regulatory definition means all ammunition products and components produced or used by or for the DOD or the U.S. Armed Services for national defense and security, including military munitions under the control of the DOD, the U.S. Coast Guard, the U.S. Department of Energy (DOE), and National Guard personnel. The term, "military munitions," includes: confined gaseous, liquid, and solid propellants; explosives; pyrotechnics; chemical and riot control agents; smokes; and incendiaries used by DOD components.

including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components, other than nonnuclear components of nuclear devices, managed under DOE's nuclear weapons program after all required sanitization operations under reference (1), as amended, have been completed.

5. Military Range. Defined in section 201 of reference (c) or by applicable State and/or local requirements. The Federal regulatory definition means designated land and water areas set aside, managed, and used to conduct research on, develop, test, and evaluate military munitions and explosives, other ordnance, or weapon systems, or to train military personnel in their use and handling. Ranges include firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, and buffer zones with restricted access and exclusionary areas.

6. Operational Range. A military range that is used for range operations and activities, or a military range that is not currently being used, but that is still considered to be a range, is under the jurisdiction, custody, or control of the DOD, and has not been put to a new use that is incompatible with range activities. Operational ranges include both "Active Ranges" (i.e., currently in service or use) and "Inactive Ranges" (i.e., not in current use or service) as these terms are defined in section 201 of reference (c) or by applicable State and/or local requirements.

7. Range Residue. Any residual material left on a range after a training exercise (e.g., hard targets, bunker construction material, concertina wire, sandbags, lifting plugs, and packaging material such as wooden boxes, pallets, strapping, and cardboard containers).

8. SW. Discarded material as defined in section 2 of reference (j) or by applicable State and/or local requirements.

## CHAPTER 21

### WASTE MILITARY MUNITIONS

#### SECTION 2: MARINE CORPS POLICY

21200. GENERAL. Installations and units in the United States (and overseas U.S. territories) shall comply with all applicable DOD, Marine Corps, Federal, State, and local requirements regarding HW military munitions management. Compliance with all aspects of an EPA-approved State HW management program is deemed to be in compliance with otherwise applicable Federal requirements. If a State HW management program is not EPA-approved, installations and units in the state shall comply with the most stringent Federal and State requirements. Marine Corps activities in foreign countries shall, as applicable, follow reference (m) or applicable country-specific Final Governing Standards (FGSs) establishing environmental compliance requirements for Marine Corps activities in foreign countries.

21201. WMM MINIMIZATION. The Marine Corps shall reduce the quantity of HW disposed of by using source reduction and recycling. The Navy Demilitarization Office and the Commanding General Marine Corps Systems Command (MARCORSYSCOM), via the process, minimize WMM.

#### 21202. RANGE OPERATIONS

##### 1. Operations Not Subject to the Munitions Rule

a. Use for Intended Purpose. Military munitions are not considered regulatory SW and, therefore, cannot be regulatory HW if they are used for their intended purpose. The following are examples of intended use in military training:

(1) Consistent Use. Use of military munitions to sustain or enhance Marine Battle Skills, Military Occupational Specialty (MOS) skills, or ITS in accordance with applicable orders and directives.

(2) Unused Propellant. Destruction of unused propellant, when such destruction is conducted as a result of MOS training required by an ITS.

(3) Range Sweeps. Range sweep operations when conducted on an operational range to destroy military munitions posing a safety hazard.

(4) Retargeting Operations. Operations to mitigate unexploded ordnance (UXO) hazards on or near targets being removed from operational range impact areas to allow safe movement of non-EOD-trained personnel. Retargeting operations shall be documented as training.

2. Operations Subject to the MR. The following activities are subject to provisions of reference (c) and/or other applicable Federal, State, and/or local HW management requirements (note: some of the activities are prohibited by Marine Corps policy):

a. Used Military Munitions Transported Off-Range for Disposal. Used military munitions, if recovered and removed from an operational range for the purpose of storage or treatment prior to disposal are considered SW and potentially HW military munitions. Military munitions removed from an operational range for research, development, test, and evaluation; reuse; or repair are not SW until declared so by the DDA.

b. Burial. Unused or used military munitions disposed of by deliberate burial on or off an operational range are SW and may be subject to RCRA corrective action. Burial of any military munitions as a method of disposal is strictly prohibited.

c. Fired Off-Range. Military munitions that land off an operational range that are not promptly rendered safe in accordance with EOD 60-series publications and/or retrieved are SW and may be subject to EPA action using its RCRA imminent hazard authority.

### 3. Recordkeeping

a. Range Records. All operational range use and military munitions expenditures will be permanently recorded. Such records will be the responsibility of the installation Range Control office and maintained in the Range Facility Management Support System and will include the following information:

(1) Expenditure of all military munitions including military munitions type, quantity, location, using unit, and estimated dud rate;

(2) UXO clearance operations or EOD incidents conducted on or off operational ranges including military munitions type, quantity, and location; and

(3) The coordinates of all areas known or suspected of containing UXO.

(4) The records mentioned above must be retained on board and cannot be destroyed.

b. Training Records. Units shall maintain operational range training records with supporting documentation in accordance with SSIC 8027. The aforementioned records must be retained on board and cannot be destroyed. Documentation supporting use of military munitions for training shall be developed and maintained according to references (a) and (i), both as amended or superseded.

#### 4. Range Residue

a. Information. Range residue (e.g., hard targets, bunker construction material, concertina wire, sandbags, lifting plugs, and packaging material such as wooden boxes, pallets, strapping, cardboard containers) is considered a SW and possibly a HW when removed from an operational range for the purpose of disposal. Due to its exposure and close proximity to military munitions and military munitions-related items, range residue is assumed to contain explosives hazards until certified otherwise by a technically qualified person.

b. Certified Range Residue. A technically qualified person shall certify all range residue as being free from explosives hazards before it is removed from an operational range for the purpose of disposal.

c. Non-certified Range Residue. All non-certified range residue shall be managed as explosives containing material in accordance with reference (a). Uncertified range residue shall remain on military ranges until certified free of explosives hazards by a technically qualified person.

d. Segregation. Range residue that has been certified free of explosives hazards by a technically qualified person shall be segregated and secured from uncertified range residue.

e. Release to the Public. Materials presenting a potential explosives hazard, particularly range residue gleaned from operational range impact areas, shall only be transported to entities that are qualified to receive, process, recycle, and dispose of such material.

21203. EOD EMERGENCIES. The following procedures are established to ensure compliance with reference (c) and/or other applicable Federal, State, and/or local HW management requirements during explosives or munitions emergency response.

1. Explosives or Munitions Emergency. EPA HW management guidance is limited when explaining what constitutes an explosive or munitions emergency. Accordingly, the DOD has established two levels of emergency response. These levels are determined by on-scene EOD response personnel.

a. Immediate Response (Level 1). Level 1 responses are necessary when immediate threats to human health, public safety, property, or the environment exist. When EOD response personnel are dispatched to an explosives or munitions emergency, they should assume that the situation requires, from an explosives safety standpoint, a Level 1 response. During a Level 1 response, EOD response personnel should take whatever action is necessary to control or eliminate imminent threats to human health (including safety) or the environment (including property). Such actions include transporting the explosives hazard to a safer location for defusing, detonation, or the performance of render-safe procedures. A Level 1 response does not require a permit, including an emergency permit. When extenuating circumstances (e.g., adverse weather or nightfall) delay the completion of necessary action, response action may be delayed if the explosives or munitions are in a safe and secure environment, or actions are implemented to create such a situation. The installation environmental office shall be immediately notified of the response.

b. Imminent and Substantial Endangerment Response (Level 2). A Level 2 response is necessary when an emergency poses an imminent and substantial endangerment to human health and the environment. These emergency responses are subject to Federal,



State, and/or local HW management requirements (e.g., emergency permits). Accordingly, if EOD response personnel determine an emergency response can be delayed to obtain an emergency permit without compromising safety or increasing the risk posed by the explosives or munitions emergency, then such permits should be requested. Explosives or munitions emergency response specialists should consult with the applicable host installation's environmental office in this circumstance. When requesting an emergency permit, certain information should be known, such as the type and location of the munitions involved and the manner in which the munitions will be transported and treated or disposed.

2. Coordination. EOD technicians shall coordinate any explosives or munitions emergency response actions with the installation environmental office personnel. The installation shall coordinate any response requiring an EOD Technician with the appropriate state regulatory officials. This can be done by preparing a Memorandum of Understanding (MOU) or Memorandum of Agreement (MOA), if applicable. After the initial response it is the installation's responsibility to coordinate any environmental cleanup actions that may be required.

3. EOD Recordkeeping. EOD shall maintain call sheets for all emergency responses. The aforementioned records must be retained on board and cannot be destroyed.

#### 21204. MUNITIONS DISPOSITION PROCESS

1. Background. In response to EPA's promulgation of reference(c), the military services developed reference (e), effective 1 July 1998. Reference (e) created the DDA process including the procedures used to request disposition instructions for excess, obsolete, unserviceable, and WMM.

2. Disposition Process. The military munitions disposition process includes a request for disposition instruction and a subsequent instruction from the appropriate DDA or inventory manager. Specific information regarding the military munitions disposition process for Class V(W) munitions is found in references (a) and (n), both as amended or superseded. Reference (e) contains specific information on the DDA and procedures for declaring WMM.

21205. RANGE MANAGEMENT PLANS. Installations shall develop range management plans in accordance with reference (o), as amended or superceded.

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WASTE MILITARY MUNITIONS

SECTION 3: RESPONSIBILITIES

21300. HEADQUARTERS MARINE CORPS, FACILITIES AND SERVICES  
DIVISION (CMC (LF))

1. Develop Marine Corps WMM implementation policy and coordinate that policy with Commander Marine Corps Systems Command (COMMARCORSSYSCOM), installations, the DOD, and, as appropriate, non-DOD entities.
2. Audit ongoing Marine Corps compliance with applicable Federal, State, and/or local HW military munitions requirements and report compliance trends to appropriate organizations.
3. Assist installations in resolving HW military munitions management disputes with Federal, State, and/or local regulatory agencies.
4. Provide environmental expertise to the implementation process (e.g., Subpart X permitting issues, WMM transportation procedures, and overall environmental compliance) as per reference (c).
5. Promote Marine Corps awareness of military munitions resource, recovery, and recycling (R3) methods. Coordinate with COMMARCORSSYSCOM to distribute R3 information to installations.

21301. COMMARCORSSYSCOM. As the Marine Corps Executive Agent for military munitions life-cycle management and the DDA for Class V(W) military munitions:

1. Support CMC (LF) WMM management policy development and monitoring.
2. Per reference (a), as amended or superseded, provide installations disposition instructions for Class V(W) ammunition.
3. When requested by CMC (LF), augment the MR portion of Environmental Compliance Evaluations with qualified personnel.

4. Promote Marine Corps awareness of military munitions resource, recovery, and R3 methods. Coordinate with CMC (LF) to distribute R3 information to installations. Coordinate with TECOM-RTAM for those R3 functions on operational ranges.

21302. COMMANDING GENERAL/COMMANDING OFFICER (CG/CO) OF MARINE CORPS INSTALLATIONS AND COMMANDER MARINE FORCES RESERVE

1. Identify, evaluate, and comply with: (a) applicable Federal, State, and local HW military munitions management requirements; or (b) reference (m) or applicable country-specific FGSSs.
2. Designate an individual responsible for coordinating the HW military munitions component of the installation HW management program.
3. Include HW military munitions in the installation's HW Management Plan and contingency plan.
4. Designate, in writing, environmental office personnel authorized to sign HW military munitions manifests.
5. Designate personnel technically qualified to certify range residue as being free from explosives hazards.
6. Ensure all range residue and other material presenting a potential explosives hazard are certified as free from explosives hazards before their release to the public.
7. Ensure installation personnel coordinate with CMC (LF), MARCORSYSCOM, and other appropriate entities on HW military munitions matters of DOD, Department of the Navy, Marine Corps, and/or regional significance.
8. Designate installation environmental office personnel responsible for coordinating HW military munitions compliance matters with CMC (LF) and Federal, State, and/or local regulators.
9. Forward recommendations for improving the MRIIP and HW military munitions policy to CMC (LF) and COMMARCORSYSCOM.
10. Program and budget for services, personnel, facilities, and equipment necessary to comply with: (a) applicable Federal, State, and local HW military munitions management requirements; or (b) reference (m) or applicable country-specific FGSSs.

11. Implement HW military munitions management training programs and train personnel involved with HW military munitions management.

12. Assist tenants in developing their HW military munitions management programs.

13. Coordinate HW military munitions management among installation EOD, Range Control, environmental personnel, explosives safety, and ammunition management personnel.

14. With participation from installation tenants, modify installation orders or instructions to comply with this chapter. This responsibility may be accomplished by writing HW military munitions management standard operating procedures.

21303. MARINE CORPS REGIONAL ENVIRONMENTAL COORDINATORS

1. Coordinate, both within the region and with Headquarters Marine Corps, significant regional installation WMM management issues.

2. Assist installation environmental office personnel with developing and implementing MOJ/MOA for explosives or munitions emergency response.

21304. CG/CO OF MARINE CORPS TENANT COMMANDS/UNITS

1. Participate in the updating of host installation's HW military munitions management orders and/or instructions.

2. Develop tenant command/unit orders and/or instructions necessary to implement the host installation's HW military munitions management program.

3. Designate HW military munitions management personnel responsible for coordinating command/unit HW military munitions compliance matters with the host installation.

4. Comply with: (a) applicable Federal, State, and local HW military munitions management requirements; or (b) reference (m) or applicable country-specific FGSS.

5. Assist the host installation in completing regulatory reports involving HW military munitions and the Marine Corps Pollution Prevention Annual Data Summary.
6. Program and budget for services, personnel, facilities, and equipment necessary to comply with: (a) applicable Federal, State, and local HW military munitions management requirements; or (b) reference (m) or applicable country-specific FGSs.
7. Train HW military munitions management personnel. Utilize, when possible, the host installation's HW management training program.

REFERENCES

- (a) MCO P8020.10A
- (b) 42 U.S.C. 6901-6992k
- (c) Title 40, Code of Federal Regulations, Part 266, "Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities," 2006 edition
- (d) DOD 6055.9-STD, "DOD Ammunition and Explosives Safety Standards," October 1, 2004,
- (e) Department of Defense Policy to Implement the EPA's Military Munitions Rule, July 1, 1998
- (f) NAVSEA OP 5, Volume 1
- (g) MCO 4400.16G
- (h) MCO 4450.12A
- (i) NAVMC Directive 3500.78
- (j) Title 40, Code of Federal Regulations, Part 261, "Identification and Listing of Hazardous Waste," 2006 edition
- (k) Title 40, Code of Federal Regulations, Part 260, "Hazardous Waste Management System: General," 2006 edition
- (l) 42 U.S.C. 2011-2296
- (m) DOD 4715.05-G, "Overseas Environmental Baseline Guidance Document," May 1, 2007
- (n) NAVSUP P-724, "Conventional Ordnance Stockpile Management", Chapter 5
- (o) MCO 3570.1B

APPENDIX A

FEDERAL ENVIRONMENTAL STATUTES, REGULATIONS,  
EXECUTIVE ORDERS, AND MILITARY MANDATES

A. FEDERAL STATUTES

1. Alternative Motor Fuel Act of 1988, as Amended (Public Law 100-494). This Act was enacted by Congress to achieve long-term energy security and to improve air quality by encouraging the production of alternative fuel vehicles (AFVs). The Act requires a portion of the new vehicles that the Federal Government acquires each year to be AFVs.

2. American Indian Religious Freedom Act of 1978 (42 U.S.C. 1996). This Act states the policy of the United States to protect and preserve for Native Americans their inherent rights of freedom to believe, express, and exercise the traditional religions of Native Americans, Eskimos, Aleuts, and Native Hawaiians. These rights include, but are not limited to, access to sites, use and possession of sacred objects, and the freedom to worship through ceremony and traditional rites.

3. Antiquities Act of 1906 (16 U.S.C. 431-433). This Act provides for the protection of historic and prehistoric ruins and objects of antiquity on Federal lands and for the authorized scientific investigation of antiquities on Federal lands, subject to permits and other regulatory requirements.

4. Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469 et seq.). This Act directs Federal agencies to notify the Secretary of the Interior when any Federal construction project of a Federally licensed activity or program may cause irreparable loss or destruction of significant scientific, prehistoric, historic, or archaeological data. The Act also provides a mechanism for funding the protection of historic and archaeological data.

5. Archaeological Resources Protection Act (ARPA) of 1979 (16 U.S.C. 470(aa) et seq.). This Act prohibits the removal, sale, receipt, and interstate transportation of archaeological resources obtained illegally (without permits) from public or Native American lands and authorizes agency permit procedures



for investigations of archaeological resources on public lands under the agency's control. Public Law 100-555 amended the ARPA to require the Secretaries of the Interior, Agriculture, and Defense 1) to develop plans for surveying the lands under their control to determine the nature and extent of archaeological resources, and 2) to prepare a schedule for surveying those lands that are likely to contain the most scientifically valuable archaeological resources.

6. Atomic Energy Act (AEA) of 1954, as Amended (42 U.S.C. 2011 et seq.). This Act amended the AEA of 1946, which had placed complete power for atomic energy development in the hands of the Atomic Energy Commission. The Act was passed to promote the peaceful uses of nuclear energy through private enterprise and to implement President Eisenhower's Atoms for Peace Program. The Act allowed the Atomic Energy Commission to license private companies to use nuclear materials and to build and operate nuclear power plants. The purpose of the Act is to assure the proper management of source, special nuclear, and byproduct material. The AEA and amendments delegate the control of nuclear energy primarily to the Department of Energy, the Nuclear Regulatory Commission, and the Environmental Protection Agency (EPA).

7. Bald Eagle Protection Act of 1940, as Amended (16 U.S.C. 668 et seq.). This Act, amended in 1972, prohibits the killing, harassment, possession, or selling of bald eagles. The Act also imposes penalties for the possession of bald eagles or eagle parts taken from birds after June 1940. The Act provides an exemption for the use of bald eagle parts in Native American religious ceremonies, provided that the appropriate permit is granted to the tribe by the United States Fish and Wildlife Service.

8. Base Closure and Realignment Act (BRAC) of 1988 (Public Law 100-526). This Act, as amended in 1990 (PL 101-510), was enacted by Congress to select bases for realignment and closure as a part of overall military downsizing. The Act contains provisions which provide for the BRAC Environmental Restoration Program. This program ensures that the property is not released for public use until all hazardous waste (HW) has been removed from the property. Ultimately, this cleanup process may prevent the transfer of cleaned parcels of land in the otherwise

required six-year time frame. However, the Act does not prevent the Marine Corps from initiating and executing lease agreements with interested parties before cleanup is complete.

9. Clean Air Act (CAA) of 1970, as Amended (42 U.S.C. 7401 et seq.). This Act, the major Federal legislation concerning the control of the Nation's air quality, requires the setting of National Ambient Air Quality Standards and the development of Federal and State programs to achieve these standards through the control of air pollution sources. The Act also provides for the EPA's delegation of authority to states to conduct air pollution control programs. The 1990 amendments (Public Law 101-549) stress pollution control and prevention.

10. Clean Water Act (CWA) of 1977, as Amended (Public Law 95-217, 33 U.S.C. 1251 et seq.). This Act is a compilation of decades of Federal water pollution control legislation. The Act amended the Federal Water Pollution Control Act (FWPCA) and requires Federal agency consistency with state nonpoint source pollution abatement plans. The CWA is the major Federal legislation concerning improvement of the Nation's water resources. The Act was amended in 1987 to strengthen enforcement mechanisms and to regulate stormwater runoff. The Act provides for the development of municipal and industrial wastewater treatment standards and a permitting system to control wastewater discharges to surface waters. The CWA contains specific provisions for the regulation of dredge soil disposal within navigable waters and for the placement of material into wetlands. Permits are required under sections 401, 402, and 404 for proposed actions which involve wastewater discharges and/or dredging/placement of fill in wetlands or navigable waters. These permits are required prior to the initiation of proposed actions. Certain proposed actions may implicate State review and water quality certification jurisdiction under section 401 of the Act, resulting in the imposition of conditions designed to ensure consistency with state water quality standards.

11. Coastal Zone Management Act (CZMA) of 1972 (16 U.S.C. 1451 et seq.). This Act provides incentives for coastal states to develop and implement coastal area management programs. The Act plays a significant role in water pollution abatement, particularly with regard to nonpoint source pollution. State coastal zone management programs frequently incorporate flood control, sediment control, grading control, and stormwater

runoff control statutes. Under the CZMA, Federal actions that have a direct impact on the coastal zone must be consistent to the maximum extent practicable with the State program. These state statutes must be considered when addressing the water pollution impacts of Marine Corps projects.

12. Community Environmental Response Facilitation Act (CERFA) of 1992 (Public Law 102-426). This Act amended the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), section 120(h), Property Transferred by Federal agencies. CERFA requires the Federal government, before the termination of Federal activities on any real property owned by the government, to identify real property where no hazardous substances (HS) or petroleum was stored, released, or disposed of. CERFA further clarifies "remedial action taken" in CERCLA section 120(h)(3).

13. CERCLA of 1980, as Amended (42 U.S.C. 9601 et seq.). This Act was enacted to deal with health and environmental hazards caused by past HW management practices. As amended by the Superfund Amendments and Reauthorization Act (SARA), the Act requires the EPA to promulgate revisions to the National Oil and Hazardous Substances Pollution Contingency Plan (the National Contingency Plan (NCP)). The NCP establishes the process for determining appropriate removal and remedial action for the Nation's most serious Superfund HW sites. Additionally, the NCP establishes the national framework for planning and response to oil discharges and HS releases. The NCP assigns responsibilities for contingency planning and response to various Federal agencies, including the Department of Defense (DOD), and outlines State and local government and public and private interest group participation in these areas. The NCP also specifies notification procedures for certain oil discharges and HS releases.

14. Conservation Programs on Military Reservation (Sikes Act) of 1960, as Amended (16 U.S.C. 670(a) et seq.). This Act requires each military department 1) to manage natural resources and to ensure that necessary services are provided for the management of fish and wildlife resources on each installation, 2) to provide their personnel with professional training in fish and wildlife management, and 3) to give priority to contracting work with Federal and State agencies that have responsibility for the conservation or management of fish and wildlife. The Act authorizes cooperative agreements with State and local

governments, non-governmental organizations, and individuals that call for each party to provide matching funds or services to carry out natural resources projects and initiatives.

15. Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 (42 U.S.C. 11001 et seq.). Also known as SARA, Title III, this Act focuses on the hazards associated with toxic chemical releases. Most notably, specific sections of EPCRA require the immediate notification of releases of extremely HS and CERCLA-defined HS to State and local emergency response planners. EPCRA requires State and local coordination in planning response actions to chemical emergencies. The Act also requires certain industries to submit information on chemical inventories and fugitive emissions.

16. The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.). This Act determines and protects both plant/animal species and their critical habitats that are threatened or endangered. The Act prohibits any Federal action that may jeopardize such species and provides for the designation of critical habitat of such species wherein no action is to be taken concerning degradation of the habitat. The Act requires a biological assessment of Federal agency actions when an endangered or threatened species may be present in the area affected by the actions.

17. Energy Policy Act of 1992 (Public Law 102-486). This Act seeks to reduce the Nation's dependency on imported oil and to improve energy efficiency. It includes provisions on government purchases of AFVs, electricity, and global warming research. The Act promotes energy efficiency and renewable energy and uses a mixture of voluntary and mandatory measures, requiring new efficiency standards for appliances that use energy and water.

18. Energy Policy and Conservation Act of 1975, as Amended (42 U.S.C. 6201 et seq.). This Act increases the supply of petroleum reserves, while concurrently lowering the demand for those products. The Act provides for the creation of a Strategic Petroleum Reserve, the implementation of price incentives to increase the supply of fossil fuels, the regulation of certain energy uses, and the reduction in demand for petroleum products through programs designed to promote the use of coal. The Act also provides for the increased energy

efficiency of automobiles, major appliances, and other consumer products, as well as the conservation of water via efficiency improvements in plumbing.

19. Federal Facilities Compliance Act of 1992 (Public Law 102-386). This Act amends the Solid Waste Disposal Act (SWDA) to waive governmental immunity, subject Federal agencies to civil and administrative penalties, and require payment of any nondiscriminatory charges that are assessed in connection with a Federal, State, or local solid waste (SW) or HW regulatory program. The Act also provides Federally Owned Treatment Works with the same sewage exclusion from HW regulation as afforded to Publicly Owned Treatment Works.

20. Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) of 1947, as Amended (Public Law 92-516, 7 U.S.C. 136 et seq.). This Act provides the principal means for preventing environmental pollution from pesticides through product registration and applicator certification. The Act requires that all pesticide products registered by the EPA must have label instructions for use, storage, and disposal on each container (label instructions are legally applicable to all users). Under FIFRA, the EPA is required to accept certain pesticides under recall for safe disposal. It is unlawful to purchase, distribute, or use any pesticide that does not have an EPA registration number or for which registration has been canceled or suspended, or to apply, store, or dispose of any pesticide or container in any manner inconsistent with applicable regulations. The Act was amended in 1972 by the Federal Environment Pesticide Control Act, and subsequently in 1975 and 1978.

21. Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 et seq.). This Act provides for the control and eradication of noxious weeds and their regulation in interstate and foreign commerce. The Act requires a general or specific permit from the Secretary of Agriculture for the movement of noxious weeds identified in the regulation into or through the United States unless such movement is from Canada.

22. Federal Property and Administrative Services Act of 1949 (10 U.S.C. 484 et seq.). This Act contains provisions on the sale of recyclable materials.

23. Federal Tort Claims Act of 1946, as Amended (28 U.S.C. 2671 et seq.). This Act substitutes the United States as the party defendant in cases alleging negligent action by a Federal employee or service member.

24. FWPCA of 1972, as Amended (33 U.S.C. 1251 et seq.). As the precursor to the CWA, this Act contains virtually all the same tools and enforcement mechanisms that the CWA contains. The CWA amendments of the FWPCA in 1977 redefined the contaminants of concern, which had previously been oxygen-demanding materials. The FWPCA is usually referred to as the CWA.

25. Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901 et seq.). This Act promotes State programs for the purpose of conserving, restoring, or otherwise benefiting nongame fish and wildlife, and their habitat.

26. Forest and Rangeland Renewable Resource Planning Act of 1974 (16 U.S.C. 1600-1614). Imposes requirements designed to ensure the effective management, use, and protection of the National Forest System.

27. Freedom of Information Act of 1966, as Amended (5 U.S.C. 552). This Act provides the mechanisms and procedures by which Federal agency information is distributed to the public.

28. Hazardous and Solid Waste Amendments (HSWA) of 1984 (Public Law 98-616). See SWDA.

29. Hazardous Materials Transportation Act (HMTA) of 1975 (49 U.S.C. 5101 et seq.). This Act regulates the shipping, marking, labeling, placarding, and recordkeeping requirements for hazardous materials (HM), including HW and military munitions. The Act applies to the transportation of HM by rail car, aircraft, vessels, interstate, and foreign carriers by motor vehicle. Substances covered by the Act are HW, HS, flammable cryogenic liquids in portable tanks and cargo tanks, and marine pollutants. The Act is administered by the Department of Transportation (DOT).

30. Hazardous Materials Transportation Uniform Safety Act (HMTUSA) of 1990 (Public Law 101-615). This Act clarifies the maze of conflicting Federal, State, and local regulations relating to the transportation of HM. Like the HMTA, the HMTUSA requires the Secretary of Transportation to promulgate

regulations for the safe transport of HM in intrastate, interstate, and foreign commerce. The Secretary also retains authority to designate materials as hazardous when they pose unreasonable risks to health, safety, or property. The Act includes provisions to encourage uniformity among different state and local highway-routing regulations, to develop criteria for the issuance of Federal permits to motor carriers of HM, and to regulate the transport of radioactive materials.

31. Historic Sites, Buildings, and Antiquities Act of 1935 (Public Law 74-292, 16 U.S.C. 461 et seq.). This Act lists national historic sites and sets forth Federal policy to preserve historic and prehistoric properties of national significance. The Act enables the Secretary of the Interior to protect nationally significant historic resources and includes the authority to establish and acquire nationally significant sites.

32. Low-Level Radioactive Waste Policy Act of 1980, as Amended (42 U.S.C. 2021b et seq.). This Act mandates that radioactive waste be disposed of in the State, or the associated compact, where it is generated. The Act also transfers the responsibility for the storage and disposal of low-level radioactive waste from the Federal government to the States or compacts, excepting several cases in which the Federal government is responsible for the generation of regulated wastes.

33. Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.). This Act halts overfishing by foreign fleets and aids the development of the domestic fishing industry. The Act gives the United States sole management authority over living resources within its jurisdictional waters.

34. Marine Mammal Protection Act of 1972, as Amended (16 U.S.C. 1361 et seq.). This Act protects marine mammals and establishes a marine mammal commission.

35. Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as Amended (33 U.S.C. 1401 et seq. and 16 U.S.C. 1431 et seq.). This Act, also known as the Ocean Dumping Act, protects oceanic waters from dumping. The Act provides for the establishment of procedures for regulating the transportation of materials into the oceans for the purpose of dumping. The Act

prohibits the dumping of sewage sludge after December 31, 1991.

36. Migratory Bird Treaty Act of 1918, as Amended, (16 U.S.C. 703 et seq.). This Act prohibits taking or harming a migratory bird, its eggs, nests, or young without the appropriate permit.

37. Military Construction Authorization Act, Passed Annually. This Act is an annual update of military construction projects.

38. Military Construction Codification Act of 1982 (Public Law 97-214). This Act provides guidance for the sale of certain recyclable materials.

39. Military Reservation and Facilities: Hunting, Fishing, and Trapping Act of 1958 (Public Law 85-337, 10 U.S.C. 2671). This Act requires that all hunting, fishing, and trapping activities on military installations be conducted in accordance with the State fish and game laws in which the installation is located. Appropriate State licenses must be obtained for these activities on the installation.

40. National Energy Conservation Policy Act of 1978 (Public Law 95-619). This Act promulgates conservation measures and efficiency standards to control the growth rate of energy demands.

41. National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.). This Act ensures that environmental factors are given the same consideration as other factors in decision making by Federal agencies. Through the environmental impact statement requirements, NEPA mandates that all Federal agencies consider the environmental effects of, and any alternatives to, all proposals for major Federal actions that significantly affect the quality of the human environment. The Act also established the Council on Environmental Quality in the Executive Office of the President.

42. National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.). This Act provides for the nomination, identification (through listing on the National Register of Historic Places (NRHP)), and protection of historical and cultural properties of significance. The Act establishes specific procedures for compliance, including initial review authority by the cognizant State Historic Protection Officer.



43. Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C. 3001 et seq.). This Act requires Federal agencies to establish procedures for identifying Native American groups associated with cultural items on Federal lands, to inventory human remains and funerary objects in Federal possession, and to return such items upon request to affiliated groups. The Act also requires that any discoveries of cultural items covered by this statute must be reported to the head of the cognizant Federal entity, who will notify the appropriate Native American tribe or organization and cease activity in the area of discovery for at least 30 days.
44. Noise Control Act of 1972 (42 U.S.C. 4901 et seq.). This Act authorizes the establishment of Federal noise emissions standards for products distributed in commerce and coordinates Federal research efforts in noise control.
45. Noxious Plant Control Act of 1968 (43 U.S.C. 1241 et seq.). This Act requires the head of Federal departments and agencies to allow a state having a program for the control of noxious plants to enter upon any Federal lands, for the purpose of controlling noxious plants, if certain criteria are met.
46. Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.). This Act ensures safe and healthful working conditions by authorizing the enforcement of the standards developed under the Act; by assisting and encouraging the states in their efforts to ensure safe and healthful conditions; and by providing for research, information, education, and training in the field of occupational safety and health.
47. Oil Pollution Act (OPA) of 1990 (Public Law 101-380, 33 U.S.C. 2702 et seq.). This Act prohibits the harmful discharges of oil and HS into waters of the United States or discharges which may affect natural resources owned or managed by the United States. The Act amended section 311 of the CWA to augment Federal response authority, increase penalties for oil spills, expand the organizational structure of the Federal response framework, and provide an emphasis on preparedness and response activities.
48. Outdoor Recreation - Federal/State Program Act (16 U.S.C. 460(L) et seq.). This Act requires consultation with the National Park Service regarding management for outdoor recreation.

49. Pollution Prevention Act of 1990 (42 U.S.C. 13101 et seq.). This Act establishes the national policy that pollution should be prevented at the source whenever feasible. Pollution that cannot be prevented should be recycled in an environmentally safe manner whenever feasible, pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible, and disposal or other release into the environment should be employed only pursuant to a permit and only as a last resort and should be conducted in an environmentally safe manner.
50. Public Buildings Cooperative Use Act of 1976 (Public Law 94-541). This Act encourages the adaptive reuse of historic buildings as administrative facilities for Federal agencies or activities.
51. Resource Conservation and Recovery Act (RCRA) of 1976, as Amended (42 U.S.C. 6901 et seq.). This Act gives the EPA and delegated States the authority to regulate the generation, transportation, treatment, storage, and disposal of HW ("cradle-to-grave" management). The most significant of the ten subtitles of RCRA is subtitle C, which establishes the national HW management program. The 1986 amendments to RCRA provide the EPA and delegated states with regulatory authority over underground storage tanks (USTs) containing HS and petroleum. RCRA focuses only on active and future facilities. Of particular note is section 3004(u) (i.e., corrective action) by which the EPA or a state may require the cleanup or a schedule for investigation and cleanup of all inactive Solid Waste Management Units on an installation before issuing a RCRA part B permit for current HW operations at the installation. Note that cleanup standards may be different under RCRA than under CERCLA.
52. Rivers and Harbors Act of 1899 (33 U.S.C. 401 et seq.). This Act, commonly referred to as the Refuse Act, provides authority to the United States Army Corps of Engineers to issue or deny permits for the construction of dams, dikes, or other structures in or affecting navigable waters of the United States.
53. Safe Drinking Water Act (SDWA) of 1974 (42 U.S.C. 300(f) et seq.). This Act amended the Public Health Service Act and specifies a system for the protection of drinking water supplies through the establishment of contaminant limitations and enforcement procedures. The EPA has two kinds of promulgated

contaminant limitations: primary drinking water standards to protect public health and secondary drinking water standards to protect public welfare. This Act requires each state to adopt a program to protect wells within its jurisdiction from contamination. States have the primary responsibility to enforce compliance with national primary drinking water standards and sampling, monitoring, and notice requirements. The 1996 amendments (Public Law 104-182) to the SDWA include new regulations based on risk and public health concerns. These regulations include prohibiting the use of lead in plumbing that carries potable water and the listing of unregulated contaminants which pose a health threat or which are known to occur in public water supplies. Additionally, the amendments waive sovereign immunity for Federal facilities.

54. Sikes Act. See Conservation Programs on Military Reservation of 1960.

55. Soil Conservation Act of 1938 (16 U.S.C. 5901 et seq.). This Act provides for the application of soil conservation practices on Federal lands.

56. SWDA of 1965, as Amended (42 U.S.C. 3251 et seq.). The HSWA extended and strengthened the provisions of the SWDA, as amended by RCRA. Subtitle I of HSWA provides for the development and implementation of a comprehensive regulatory program for USTs containing HS, petroleum products, and releases of those substances into the environment. HS regulated under subtitle I include any substance listed in section 101(14) of CERCLA.

57. SARA of 1986 (Public Law 99-499). This Act reauthorized CERCLA to continue cleanup activities around the country. An \$8.5 million appropriation was authorized for the "Superfund" program. Several site-specific amendments, definitions, clarifications, and technical requirements were added to the legislation, including additional enforcement authorities.

58. Toxic Substances Control Act (TSCA) of 1976 (15 U.S.C. 2601 et seq.). This Act provides for the Federal regulation of chemical substances that present a hazard to health or the environment. Such regulation requires the testing of new substances and subsequent control of their commercial distribution. The Act also contains specific requirements relative to polychlorinated biphenyls, asbestos, and radon.

59. Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 et seq.). This Act, which amended the AEA, provides for the custody, remediation, and transfer of lands which are disposal sites for residual radioactive materials, uranium and thorium byproduct materials, and mill tailings. Regulations govern the long-term care and maintenance, monitoring requirements, cleanup standards, and emergency management plans of tailings sites. The Act includes provisions for the use of source material by prime contractors, as well as for the sale or lease of subsurface mineral rights.

60. Used Oil Recycling Act of 1980, as Amended (Public Law 96-463). This Act was enacted to protect and conserve the "scarce" supplies of oil and to protect human health and the environment from the hazards of the improper disposal of used oil. The Act provided for the recycling/reuse of used oil and required the labeling of used oil. Provisions of the Act were incorporated into the HSWA of the SWDA.

61. Water Quality Act of 1965 (Public Law 89-234). This Act was the first major legislation pertaining to the water quality standards of surface waters. The Act provides States and interstate compacts with Federal support in the establishment and enforcement of water quality standards. The concepts in the Act are largely superseded by the CWA of 1977.

62. Water Quality Improvement Act of 1970 (Public Law 91-224). This Act prohibits the discharge of "harmful" quantities of oil and sewage from recreational boats into navigable waters. Regulations at 40 CFR 110 define "harmful" quantities as those discharges which will cause a sheen or discoloration on the surface of the water or a sludge or emulsion to be deposited beneath the surface of the water.

#### B. FEDERAL REGULATIONS

1. 15 CFR part 930, Federal Consistency with Approved Coastal Management Programs.
2. 15 CFR parts 902-981, National Oceanic and Atmospheric Administration (NOAA).
3. 29 CFR part 1910, Occupational Safety and Health Standards.

4. 29 CFR part 1910.120, Occupational Safety and Health Administration (OSHA) Hazardous Waste Operations and Emergency Response.
5. 29 CFR part 1910.1200, Hazard Communication Standard.
6. 30 CFR part 254, Oil-spill Response Requirements for Facilities Located Seaward of the Coast Line.
7. 32 CFR part 172, Disposition of Proceeds from DOD Sales of Surplus Personal Property.
8. 32 CFR part 190, Natural Resources Management Program.
9. 32 CFR part 775, Procedures for Implementing the National Environmental Policy Act.
10. 33 CFR part 80, COLREGS DEMARCATION Lines.
11. 33 CFR part 153, Control of Pollution by Oil and Hazardous Substances, Discharge Removal.
12. 33 CFR part 154, Facilities Transferring Oil or Hazardous Material in Bulk.
13. 33 CFR part 320, General Regulatory Policies.
14. 33 CFR part 321, Permits for Dams and Dikes in Navigable Waters of the United States.
15. 33 CFR part 322, Permits for Structures or Work in, or Affecting, Navigable Waters of the United States.
16. 33 CFR part 323, Permits for Discharges of Dredged or Fill Material into Waters of the United States.
17. 33 CFR part 324, Permits for Ocean Dumping of Dredged Material.
18. 33 CFR part 325, Processing of Department of the Army Permits.
19. 33 CFR part 326, Enforcement.
20. 33 CFR part 327, Public Hearings.

21. 33 CFR part 328, Definition of Waters of the United States.
22. 33 CFR part 329, Definition of Navigable Waters of the United States.
23. 33 CFR part 330, Nationwide Permit Program.
24. 36 CFR part 60, National Register of Historic Places.
25. 36 CFR part 800, Protection of Historic Properties.
26. 40 CFR part 61, National Emission Standards for Hazardous Air Pollutants.
27. 40 CFR part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories.
28. 40 CFR part 68, Chemical Accident Prevention Provisions.
29. 40 CFR part 70, State Operating Permit Programs.
30. 40 CFR part 71, Federal Operating Permit Programs.
31. 40 CFR part 109, EPA Regulations on Criteria for State, Local, and Regional Oil Removal Contingency Plans.
32. 40 CFR part 110, EPA Regulations on Discharge of Oil.
33. 40 CFR part 112, EPA Regulations on Oil Pollution Prevention.
34. 40 CFR part 113, EPA Regulations on Liability Limits for Small Onshore Storage Facilities.
35. 40 CFR parts 116-117, EPA Regulations on Hazardous Substances.
36. 40 CFR parts 122-124, EPA Regulations Implementing CWA.
37. 40 CFR part 125, EPA Regulations on Criteria and Standards for the National Pollutant Discharge Elimination System.
38. 40 CFR part 129, EPA Toxic Pollutant Effluent Standards.

39. 40 CFR part 130, EPA Requirements for Water Quality Planning and Management.
40. 40 CFR part 131, Toxic Criteria for those States not Complying with Clean Water Act, section 303(C)(2)(B).
41. 40 CFR part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants.
42. 40 CFR parts 141-143, EPA National Drinking Water Regulations.
43. 40 CFR part 144, Underground Injection Control Program.
44. 40 CFR part 145, State Underground Injection Control Program Requirements.
45. 40 CFR part 146, Underground Injection Control Program: Criteria and Standards.
46. 40 CFR part 147, State Underground Injection Control Programs.
47. 40 CFR part 148, Hazardous Waste Injection Restrictions.
48. 40 CFR part 149, Sole Source Aquifers.
49. 40 CFR part 220-225, Ocean Dumping Regulations and Criteria.
50. 40 CFR part 227, Criteria for the Evaluation of Permit Applications for Ocean Dumping of Materials.
51. 40 CFR part 228, Criteria for the Management of Disposal Sites for Ocean Dumping.
52. 40 CFR part 229, General Permits.
53. 40 CFR part 230, Section 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material.
54. 40 CFR part 232, Section 404 Program Definitions; Exempt Activities not Requiring 404 Permits.
55. 40 CFR part 233, Section 404 State Program Regulations.

56. 40 CFR parts 240-241, EPA Guidelines for the Thermal Processing of Solid Wastes and for the Land Disposal of Solid Wastes.
57. 40 CFR part 243, Guidelines for the Storage and Collection of Residential, Commercial, and Institutional Solid Waste.
58. 40 CFR part 244, Solid Waste Management Guidelines for Beverage Containers.
59. 40 CFR part 245, EPA Guidelines for Resource Recovery Facilities.
60. 40 CFR part 246, Source Separation for Materials Recovery Guidelines.
61. 40 CFR part 247, Comprehensive Procurement Guideline for Products Containing Recovered Materials.
62. 40 CFR part 257, EPA Regulations on Criteria for Classification of Solid Waste Disposal Facilities and Practices.
63. 40 CFR part 258, Criteria for Municipal Solid Waste Landfills.
64. 40 CFR part 261, Identification and Listing of Hazardous Waste.
65. 40 CFR part 264, Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.
66. 40 CFR part 268, Land Disposal Restrictions.
67. 40 CFR part 270, EPA Administered Permit Programs: The Hazardous Waste Permit Program.
68. 40 CFR part 280, Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks.
69. 40 CFR part 300, EPA National Oil and Hazardous Substances Pollution Contingency Plan.



70. 40 CFR part 302, EPA Designation, Reportable Quantities and Notification.
71. 40 CFR part 310, Reimbursement to Local Governments for Emergency Response to Hazardous Substances Releases.
72. 40 CFR part 355, Emergency Planning and Notification.
73. 40 CFR part 370, EPA Hazardous Chemical Reporting: Community Right-to-Know Requirements.
74. 40 part CFR 372, Toxic Chemical Release Reporting: Community Right-to-know.
75. 40 part CFR 403, General Pretreatment Regulations for Existing and New Sources of Pollution.
76. 40 parts CFR 405-471, EPA Effluent Guidelines and Standards.
77. 40 CFR part 413, Electroplating Point Source Category.
78. 40 CFR part 433, Metal Finishing Point Source Category.
79. 40 CFR part 503, Standards for the Use or Disposal of Sewage Sludge.
80. 40 CFR 1500, Purpose Policy Mandate (Council on Environmental Quality Regulations on Implementing NEPA Procedures).
81. 40 CFR part 1501, NEPA and Agency Planning.
82. 40 CFR part 1502, Environmental Impact Statement.
83. 40 CFR part 1503, Commenting.
84. 40 CFR part 1504, Predecision Referrals to the Council of Proposed Federal Actions Determined to be Environmentally Unsatisfactory.
85. 40 CFR part 1505, NEPA and Agency Decision Making.
86. 40 CFR part 1506, Other Requirements of NEPA.
87. 40 CFR part 1507, Agency Compliance.

- 88. 40 CFR part 1508, Terminology and Index.
- 89. 43 CFR part 11, Natural Resource Damage Assessments.
- 90. 46 CFR part 7, Boundary Lines.
- 91. 49 CFR part 130, Oil Spill Prevention and Response Plans.
- 92. 49 CFR part 171, General Information, Regulations and Definitions.
- 93. 49 CFR part 172, Hazardous Material Table, Special Provisions, Hazardous Material Communications, Emergency Response Information, and Training Requirements.
- 94. 49 CFR part 173, Shippers - General Requirements for Shipments and Packagings.
- 95. 49 CFR part 174, Carriage by Rail.
- 96. 49 CFR part 175, Carriage by Aircraft.
- 97. 49 CFR part 176, Carriage by Vessel.
- 98. 49 CFR part 177, Carriage by Public Highway.
- 99. 49 CFR part 194, Response Plans for Onshore Pipelines.
- 100. 50 CFR part 17, Endangered and Threatened Wildlife and Plants.
- 101. 50 CFR part 18, Marine Mammals.
- 102. 50 CFR part 22, Eagle Permits.
- 103. 50 CFR Appendix A to Chapter I, Codes for the Representation of Names of Countries.
- 104. 50 CFR part 216, Regulations Governing the Taking and Importing of Marine Mammals.
- 105. 50 CFR part 229, Authorization for Commercial Fisheries Under the Marine Mammal Protection Act of 1972.

106. 50 CFR part 402, Interagency Cooperation-Endangered Species Act of 1973, as Amended.

C. EXECUTIVE ORDERS (E.O.s)

1. E.O. 11593, May 13, 1971 (Reprinted as a Note at 16 U.S.C. part 470). This E.O. directs Federal agencies to provide leadership in preserving, restoring, and maintaining the historic and cultural environment of the Nation; to ensure the preservation of cultural resources; to locate, inventory, and nominate to the NRHP all properties under their control that meet the criteria for nomination; and to ensure that cultural resources are not inadvertently damaged, destroyed, or transferred before the completion of inventories and evaluation for the NRHP.
2. E.O. 11644, February 8, 1972 (Reprinted as a Note at 42 U.S.C. part 4321). This E.O. controls the use of off-road vehicles on public lands so as to protect the resources of those lands, promote the safety of all users of those lands, and minimize conflicts among the various uses of those lands. The E.O. was amended by E.O. 11989.
3. E.O. 11987, May 24, 1977 (Reprinted as a Note at 42 U.S.C. part 4321). This E.O. restricts the introduction of exotic species into the United States.
4. E.O. 11988, May 24, 1977 (Reprinted as a Note at 42 U.S.C. part 4321). This E.O. requires Federal agencies to evaluate the effects of their actions on floodplains.
5. E.O. 11989, May 24, 1977 (Reprinted as a Note at 42 U.S.C. part 4321). This E.O. clarifies agency authority to define zones of use by off-road vehicles on public lands and amends E.O. 11644, February 8, 1972, by exempting fire, military, emergency, law enforcement, or combat/combat-support vehicles.
6. E.O. 11990, May 24, 1977 (Reprinted as a Note at 42 U.S.C. part 4321). This E.O. directs agencies to take action to protect wetlands on Federal property and mandates the review of proposed actions on wetlands through procedures established by NEPA.
7. E.O. 12088, October 13, 1978 (Reprinted as a Note at 33

U.S.C. parts 1401 and 42 U.S.C. 4321). This E.O. replaces E.O. 11507 and directs Federal agencies to comply with applicable Federal, State, local, and host nation environmental laws and regulations. The E.O. also requires the head of each Executive agency to ensure that sufficient funds for compliance with applicable pollution control standards are requested in the agency budget. The E.O. requires Federal facility leadership in furthering the purpose and policies of the following statutes: the CAA, FWPCA, SWDA, MPRSA, SDWA, TSCA, NEPA, FIFRA, and the Noise Control Act. E.O. 12088 revoked in part by E.O. 13148 (sections 1-4 revoked).

8. E.O. 12114, January 4, 1979 (Reprinted as a Note at 33 U.S.C. part 1401 and 42 U.S.C. part 4321). This E.O. directs Federal agencies to take action to further the purpose of the NEPA with respect to the environment outside the United States and its territories and possessions.

9. E.O. 12580, January 23, 1987 (Reprinted as a Note at 42 U.S.C. part 9615 and 42 U.S.C. part 4321). This E.O. delegates authority to Federal agencies to investigate and respond to HS spills under CERCLA, as amended by SARA.

10. E.O. 12777, October 18, 1991 (Reprinted as a Note at 33 U.S.C. part 1321, 33 U.S.C. part 2712, and 42 U.S.C. part 9615). This E.O. implements section 311 of the FWPCA and the OPA. The E.O. amended E.O. 12580 to implement provisions of the OPA. The E.O. also delegates the President's responsibilities for promulgating regulations pertaining to oil facility response plans to the EPA Administrator and to the Coast Guard through the Secretary of the DOT or, in times of war, the Secretary of the DOD.

11. E.O. 12843, April 21, 1993. This E.O. covers the early phase-out of ozone-depleting chemicals.

12. E.O. 12844, April 21, 1993. This E.O. accelerates Federal purchases of AFVs. E.O. 12844 revoked by E.O. 13031.

13. E.O. 12873, October 20, 1993. This E.O. addresses Federal acquisitions, recycling, and waste prevention. The E.O. requires the Federal Government to make more efficient use of natural resources by maximizing recycling and preventing waste wherever possible, in addition to using and procuring environmentally preferable products and services. The E.O.

directs Federal agencies to set goals for SW prevention and recycling, establishes a model facility program, and sets minimum recycled content standards for printing and writing paper. Revoked by E.O. 13101, then E.O. 13423.

14. E.O. 12898, February 11, 1994 (Reprinted as a Note at 42 U.S.C. part 4321). This E.O. requires Federal actions to address environmental justice in minority and low-income populations. The E.O. directs each Federal agency, wherever practicable and appropriate, to collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding Federal facilities that are subject to the reporting requirements under the EPCRA, sections 11001-1105, and that are expected to have a substantial environmental, human health, or economic effect on surrounding populations.

15. E.O. 12902, March 8, 1994. This E.O. requires Federal agencies to set goals for reducing energy consumption, increasing energy efficiency, auditing their facilities for energy and water use, purchasing energy efficient products, increasing the use of solar and other renewable energy sources, designating a "showcase" facility, and minimizing the use of petroleum-based fuel. Revoked by E.O. 13123, then E.O. 13423.

16. E.O. 13149, April 21, 2000. The purpose of this order is to ensure that the Federal Government exercises leadership in the reduction of petroleum consumption through improvements in fleet fuel efficiency and the use of alternative fuel vehicles (AFVs) and alternative fuels. Reduced petroleum use and the displacement of petroleum by alternative fuels will help promote markets for more alternative fuel and fuel efficient vehicles, encourage new technologies, enhance the United States' energy self-sufficiency and security, and ensure a healthier environment through the reduction of greenhouse gases and other pollutants in the atmosphere.

17. E.O. 13423, January 24, 2007. This E.O. requires Federal agencies to set goals to improve environmental, transportation, and energy-related activities in support of their mission. The E.O. directs Federal agencies to ensure that they are improving energy efficiency and reducing greenhouse gases; that at least half of the renewable energy consumed is from new renewable energy sources; water consumption intensity is reduced; bio-based, environmentally preferable, energy-efficient, water

efficient, and recycled-content products are purchased; the quantity of toxic and hazardous chemicals and materials acquired, used, or disposed of is reduced; the use of petroleum-based fuel in agency fleets is minimized; new construction and major renovations comply with the Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings Memorandum of Understanding (2006); whenever possible Electronic Product Environmental Assessment Tool products are acquired; Energy Star features are on agency computers and monitors; policies to extend the useful life of electronic equipment are implemented, and environmentally sound practices are used with respect to the disposal of electronic equipment that has reached the end of its useful life. E.O.s 13148 and 13149 are revoked.

D. DOD DIRECTIVES AND INSTRUCTIONS. See appendices H-Q for DOD specifications.

E. SECRETARY OF THE NAVY INSTRUCTIONS (SECNAVINST)

1. SECNAVINST 5000.2C.
2. SECNAVINST M-5210.1
3. SECNAVINST 5520.3.
4. SECNAVINST 5720.42F.
5. SECNAVINST 5720.44B.
6. SECNAVINST 5820.8A.

F. NAVAL FACILITIES (NAVFAC) PUBLICATIONS

1. NAVFAC P-442, Economic Analysis Handbook.

G. NAVAL MEDICINE (NAVMED) PUBLICATION

1. NAVMED P-5010, Manual of Naval Preventative Medicine.

H. CHIEF, BUREAU OF MEDICINE AND SURGERY (BUMED) INSTRUCTION

1. BUMEDINST 6280.1A.

I. NAVAL OPERATIONS INSTRUCTIONS (OPNAVINST)

1. OPNAVINST 5100.25G.

2. OPNAVINST 6250.4B

3. OPNAVINST 11010.36B.

J. MARINE CORPS ORDERS (MCOs)

1. Marine Corps Bulletin 1200. This bulletin describes the specific responsibilities and duties of Military Occupational Specialty (MOS) 8056, HM/HW Marine and Officer; and MOS 8831, Environmental Engineering Management Officer.

2. MCO 1553.1B. This order delineates the systems approach to training requirements which are applicable to Marine Corps formal schools, training centers, and formal courses of instruction at other military schools.

3. MCO 1553.7. This order contains procedures for requesting information about required training courses through the By Name Assignment System, which allocates course space to Marine Corps students.

4. MCO 1520.9G. This order contains specific prerequisites and other information regarding MOS 8831, Environmental Engineering Management Officer.

5. MCO 1560.19E. This order contains specific prerequisites and other information regarding MOS 8831, Environmental Engineering Management Officer.

6. MCO 4140.5. This order implements DOD 4140.27-M, Shelf-Life Item Management Manual.

7. MCO P4400.150E. This order sets forth policies for consumer level supplies.

8. MCO 4450.12A. This order provides policies, procedures, and responsibilities for the receipt, storage, transportation, and

handling of HW and HM.

9. MCO 4450.13A. This order contains procedures for HM shelf-life management and criteria for extending type II shelf-life items published in the DOD Quality Status List.
10. MCO 4555.3C. This order outlines policies, procedures, and responsibilities for the recovery of precious metals.
11. MCO 4733.1B. This order requires commanders to establish procedures for the calibration, safe operation, and maintenance of test, measurement, and diagnostic equipment that supports the installation's environmental management program.
12. MCO P4790.2C. This order requires commanders to establish procedures for the control of tool sets, chests, and kits and other equipment that supports the installation's environmental management program.
13. MCO 4860.3D. This order supplies guidance for performing commercial and industrial-type activities.
14. MCO 5040.6H. This order describes the Commanding General's Inspection Program and requires that the administrative aspects of an installation's environmental program be evaluated at least every two years.
15. MCO 5104.1B. This order sets forth guidance for laser hazard control.
16. MCO 5215.1K. This order promulgates policies and procedures for the management and administration of the Marine Corps Directives System, providing guidance on the review, preparation, filing, and maintenance of Marine Corps directives.
17. MCO P5580.2A. This order includes policies and procedures for reporting noncompliance.
18. MCO 7301.116. This order provides procedures governing unfunded reimbursable accounts.
19. MCO P11000.5G. This order supplies guidance for requesting funds to support environmental compliance requirements.
20. MCO P11000.12C. This order supplies guidance for



requesting funds for construction activities involved with  
environmental compliance requirements.

APPENDIX B-1

PROCESSING ENFORCEMENT ACTIONS

A. GENERAL. An Enforcement Action (EA) is an action taken by an environmental regulatory agency to enforce statutory and/or regulatory environmental compliance requirements. Nomenclature of EAs may include warning order, notice of deficiency, notice of violation (NOV), citation, administrative complaint, notice of non-compliance, administrative order, corrective action order, immediate compliance order, delayed compliance order, or emergency power order. The relative gravity of an NOV or other EA, to include the possibility of monetary penalties, largely depends upon the frequency, severity, and duration of the environmental compliance violation(s) alleged as well as the degree of cooperation demonstrated after learning of the violations. When an installation or unit receives an EA, prompt and complete action must be taken to protect human health and the environment and minimize further adverse administrative, civil, or criminal EA against the installation or unit and the individual(s) responsible for receiving the EA.

B. DEFINITION OF EA

1. United States and Territories. A formal, written notification by the Environmental Protection Agency (EPA) or other Federal, State, inter-state, regional, or local environmental regulatory agency of violation of any applicable statutory or regulatory requirement. It should cite the relevant standard or criteria to be met and request the installation take corrective action. An EA does not include warning letters that do not cite a violation of specific environmental law or regulation, informal notices of deficiencies, or notices of deficiencies to permit applications. (Note: Warning letters or similarly titled formal written notifications from authorized regulators that do cite violations with environmental laws and regulations, are considered EAs.)

2. Overseas. An EA is a formal, written notification by the appropriate Host Nation environmental regulatory authority of any applicable environmental standard (as defined in the Final Governing Standards). It should cite the relevant standard or criteria to be met and request the installation take corrective action. An EA does not include warning letters that do not cite

a violation of specific environmental law or regulation, informal notices of deficiencies, or notices of deficiencies to permit applications.

C. Significant Non-Compliance (SNC). An EPA term describing facilities that have a violation of significant magnitude and/or duration that warrants priority for review and/or response by an agency. Currently, EPA only tracks Federal facilities that are identified as "major" under references (a), (b), and (c). The definition of "major" and "significant non-compliance" varies by media. The air program uses the term High Priority Violation (HPV) instead of SNC, but for the purposes of this chapter, SNC includes HPV. EPA Program offices are the source of media specific definitions.

D. SETTLEMENT AGREEMENTS. If the installation or unit does not contest the NOV or other EA, the environmental regulatory agency may demand the execution of a settlement agreement. Settlement agreement terms vary significantly and shall be negotiated by counsel. Basic settlement agreement terms may include a statement of facts and conclusions of law, penalty assessment and payment provisions, a list and description of environmental compliance projects, and an environmental compliance schedule.

E. REPORTING OF EAs

1. Informal Indication of an EA. Each installation and unit, upon receipt of any informal (e.g., oral) indication of an NOV or other EA (hereinafter collectively referred to as "enforcement action"), shall:

a. Consult with counsel. The Counsel for the Commandant of the Marine Corps (CMC (CL)) Offices of Counsel have environmental compliance counsel to advise installations and units on how to prepare for the EA; and

b. When significant natural resources damage occurs, and/or when immediate, adverse publicity is anticipated, notify Headquarters, Marine Corps, Facilities and Services Division by telephone or electronic mail on the same day of receiving the informal EA indication, unless serious incident reporting is required by reference (d).

2. Formal Receipt of an EA

a. Upon receipt of any EA, regardless of whether a response is required, the cited commander shall ensure the installation or unit reports the EA.

b. Within five working days after the installation's or unit's receipt of the EA, the installation or unit shall make appropriate entries into the Environmental Quality in Progress (EQUIP) data base and the Marine Corps Environmental Tracking System (CompTRAK) and submit a Report of NOV/Notice of Noncompliance (RCS MC-5090-01) to CMC (LFL). The report shall be submitted by routine radio message, with information copies to: the Assistant Deputy Chief of Staff, Installations and Logistics (Facilities), via the chain of command; the applicable CMC (CL) Office of Counsel; and the applicable Regional Environmental Coordinator. The message writing system to be used is the Defense Messaging System using "CMC WASHINGTON DC L LFL" as the addressee. Additionally, submit via email a copy of the NOV report to CMC (LFL) within five working days. The message and email shall contain the following information:

(1) Name of cited installation, unit, and/or individuals.

(2) Name of issuing agency.

(3) Date of written notice and date received by the cited installation, unit, and/or individuals.

(4) Certification that an appropriate entry in EQUIP and the CompTRAK is complete.

(5) Statute or regulation cited (with specific section).

(6) Cited findings or deficiencies in the following categories:

(a) Class I: Releases to the environment;

(b) Class II: Violations with a potential to cause a release to the environment; or

(c) Class III: Administrative procedural violations (e.g., allegations of improper paperwork, report filings, and

labeling). Note: A notice alleging an improper or incomplete permit application is not, by itself, an EA.

(7) Identification of the root cause, consistent with the categories defined in EQUIP and CompTRAK.

(8) Amount of any monetary penalty assessed.

(9) Discussion of compliance actions sought, to include whether the regulatory agency offers a settlement proposal or whether the installation or unit contemplates settlement, and if so, whether a Supplemental Environmental Project may be applicable to reduce a monetary penalty.

(10) Estimate of current risks for environmental harm posed by the circumstances giving rise to the alleged violations.

(11) Description of required compliance actions or projects, to include estimated costs and CompTRAK project number(s), as required.

(12) Commander's point of contact to include commercial and Defense Switching Network voice and fax phone numbers and email address.

c. The cited commander shall also ensure the installation or unit makes the appropriate EQUIP and CompTRAK follow-on entries. Any changes to the status of the EA shall be promptly recorded in EQUIP and CompTRAK.

#### F. EA CLOSURE

1. An EA is closed when any one of the following conditions exists:

a. The regulatory agency states, in writing, that it is satisfied with the installation or unit compliance actions and no further enforcement/actions will be taken regarding the violations alleged within the EA. Note that certain statutory/regulatory schemes provide for shared or delegated enforcement authority between state and Federal agencies. In the event the installation receives an NOV, installation compliance officials should ensure that all regulatory authorities possessing enforcement power are satisfied with the

installation's compliance actions. For example, even if a state regulatory agency deems compliance actions satisfactory, Federal authorities may still commence an EA. This is known as 'overfiling.' Thus, it is necessary to ensure that all potential EAs are resolved.

b. The regulatory agency, in writing, rescinds the EA.

c. The regulatory agency supersedes the EA with another action.

d. A settlement agreement is executed regarding the violations alleged within the EA.

2. When the installation or unit commander cannot close an EA with a regulatory agency after compliance actions are complete, the installation or unit shall:

a. Informally contact the regulatory agency to request written confirmation of compliance action completion and EA closure; then,

b. If the regulatory agency does not provide a confirmation of compliance action completion and EA closure, the installation or unit shall send a letter to the regulatory agency explaining its compliance actions and requesting EA closure. A copy of the EA shall be enclosed with the letter, and the letter shall state that the installation or unit commander will consider the EA closed if the regulatory agency does not confirm the EA's closure within 60 days following receipt of the letter. The letter shall be sent via United States certified mail with return receipt requested or via another delivery method documenting the letter's receipt.

c. If the regulatory agency does not respond to the letter within 60 days after its receipt, the installation or unit shall send a follow-up letter. The follow-up letter shall reference the previous letter and state that the regulatory agency's response has not been received and the EA is now considered closed. The follow-up letter shall be sent via United States certified mail with return receipt requested or via another delivery method documenting the letter's receipt.

Bear in mind that these letters do not legally preclude the regulatory agency from engaging in any further activity regarding the NOV which is authorized by law. They serve as a catalyst to inspire the regulatory agency to take final action and to memorialize that the installation commander scrupulously complied with all known requirements.

d. Finally, within five working days after regulatory agency receipt of the second letter without response, the installation or unit shall update EQUIP and CompTRAK to record the EA's closure.

## APPENDIX B-2

### DESKTOP PROCEDURES AND TURNOVER FOLDERS

#### A. DESKTOP PROCEDURES

1. Frequent personnel changes within installations and units challenge their maintenance of environmental compliance expertise and the continuity of their day-to-day operations. The proper use of desktop procedures and turnover folders alleviates these challenges and improves overall efficiency. It also provides work force continuity when unforeseen events suddenly remove a long-term employee.

2. Each installation and unit shall prepare and maintain desktop procedures for each environmental billet (e.g., hazardous waste handlers, recycling materials handlers, EQUIP and CompTRAK clerks, Environmental Compliance Evaluation (ECE) evaluators, Environmental Management System coordinators, and environmental compliance training specialists). Desktop procedures need not be all-inclusive or formal; rather, they may simply be a list of significant items and standardized instructions pertinent to an environmental billet's position description or duties. Normally, desktop procedures should include such items as current references; step-by step procedures for completing required duties; points-of-contact names, telephone numbers, and email addresses; and instructions for required reports.

3. Desktop procedures are current, concise instructions and shall not duplicate information within the turnover folder when the two documents are within the same record. Desktop procedures should also not be voluminous, however, as this will discourage their use. Each civil servant environmental billet position description shall make reviewing and updating the billet's desktop procedures a major duty or responsibility.

#### B. TURNOVER FOLDERS

1. Each installation and unit shall prepare and maintain a turnover folder for each environmental billet. Each civil servant environmental billet position description shall make reviewing and updating the billet's turnover folder a major duty



or responsibility. Turnover folder contents may be included within desktop procedures and shall, specific to the billet incumbent, contain:

- a. The billet title;
- b. The immediate supervisor's billet title, and the title(s) of any subordinate billet(s) within the chain of command (a Table of Organization may be used);
- c. A copy of the commander's environmental statement (see paragraph 2216 of this Manual);
- d. The position description (for civil service employees) or the billet description;
- e. A list of position description or billet description major duties and responsibilities (for civil service employees, these should already be in the position description);
- f. A list of tasks essential to performing the billet's major duties and responsibilities;
- g. A list of billet education or billet training requirements (e.g., initial and incumbent refresher) and the training plan;
- h. A list generally referencing the environmental laws, regulations, orders, and other instructions directly related to the billet;
- i. A list of required reports, required report due dates, and evidence of required report submittals for at least three prior fiscal years;
- j. A list of environmental compliance permits for which the incumbent is responsible and a description of the activities for which the permits are applicable;

(1) For unit billets, the permit list and activity descriptions shall be limited to the permits held by the installation or unit directly affecting unit operations. The activity descriptions shall identify each permitted activity location, generally describe each activity subject to permitting, and identify any additional installation or unit

best management practices limiting the activity apart from permit requirements (e.g., vehicles will be washed only on wash racks).

(2) For installation billets, the permit list and activity descriptions shall include a list of all applicable permits. Using a database format, the activity descriptions shall, at a minimum, identify the location (e.g., building number, grid coordinate) of each permitted activity; generally describe each activity subject to permitting; list each permit's expiration date; list and describe each permit fee; identify each fee's payment period (e.g., annually, quarterly, monthly) and due date; list the CompTRAK entry number to pay the permit fee; identify the unit point of contact (name, rank, unit, and billet) and phone number; and identify the frequency of compliance inspections;

k. A Plan of Actions and Milestones (POA&M) for studies and other projects required for each environmental compliance permit and the corresponding CompTRAK entry number for each project's funding request. This turnover folder section may be separate from the turnover folder if it is too large for it. If separate, the turnover folder shall incorporate the POA&M and corresponding CompTRAK entry numbers by reference and identify their location;

l. A list of environmental compliance and/or coordination activities (and their contact information). The list shall include environmental coordinators and Federal, State, and/or local regulators;

m. A list of other points of contact internal and external to the installation, with telephone numbers and mailing and email addresses. The list shall briefly describe each contact's general relationship to the billet;

n. Miscellaneous information (e.g., administrative or operational procedures peculiar to the billet, such as shared billet duties and responsibilities);

o. An itemized and current list of all applicable past, ongoing, and anticipated environmental compliance projects. This list may also include recent environmental compliance POA&Ms, a printout of current CompTRAK projects, and status

reports of pending projects including critical path diagrams using program evaluation and review techniques or bar charts plotting project tasks over time; and

p. An itemized and current list of all applicable past, ongoing, and anticipated environmental compliance projects and other compliance actions from the last Benchmark ECE, environmental audit, and/or Inspector General of the Marine Corps inspection. This list shall contain excerpts from the ECE POA&M.

2. Each installation and unit shall organize its turnover folders to permit billet incumbents to continuously improve them. Installation and unit commanders may establish procedures for turnover folder organization and the sufficiency of detail required to satisfy turnover folder content requirements.

REFERENCES

- (a) 42 U.S.C. 6901-6992k
- (b) 33 U.S.C. 1251-1387
- (c) 42 U.S.C. 7401-7671
- (d) MCO 3504.2



APPENDIX C

HEADQUARTERS MARINE CORPS, FACILITIES AND SERVICES DIVISION (CMC  
(LF))-SPONSORED ENVIRONMENTAL COMPLIANCE EVALUATION (ECE) REPORT  
FORMAT

1. DRAFT ECE REPORT. The Draft ECE Report for the CMC (LF)-sponsored ECEs will contain, as a minimum, the following:

a. Preliminary Executive Overview. Prepared by the CMC (LF) Team Leader and normally three pages in length, this document is the out-brief to the installation commander. It contains the following parts: definitions, deficiencies, positive comments, areas of concern and interest, a request for comments and the Plan of Actions and Milestones (POA&M), a request for an evaluation of the ECE team, and a summary of the deficiencies presented in tabular format.

b. Media Overview. Prepared by the media-specific evaluator. This is a three to five sentence paragraph providing the installation commander with a word picture of the status for each media area evaluated. As part of the media overview, a table summary will be included. This summary will contain, at a minimum, the program media, type of evaluation (document review, interview, or visit), location or document title and date, building number, and installation point of contact.

c. Positive Findings. Positive results which warrant specific attention from the commander.

d. Deficiencies. This section includes all deficiencies (findings, discrepancies, and issues).

e. Not Reviewed. This section includes questions not reviewed by the ECE team. These questions will require research by the installation commander to determine whether they apply to the installation and the installation environmental compliance status.

f. Yes Section. This section includes all questions receiving a positive or "yes" response that include comments.

2. POA&M. The installation commander will develop and submit a POA&M using the POA&M module within Automated Compliance Evaluation (ACE Online). An installation commander's comment field is provided in the ACE Online POA&M module. This field is for the installation commander to describe the corrective action taken or projects to be developed to solve and/or prevent the noted situation. Any disagreement with the ECE team's report should be placed in the installation commander's comment field. The POA&M is a dynamic document with management flexibility built into the reporting format to allow the commander to track and document progress.

3. FINAL ECE REPORT. The Final Report is made up of the following: 1) the Final Report cover letter; 2) the notification of the POA&M report with installation commander and Higher Headquarters' comments available via ACE Online; and 3) the draft out-brief report with appropriate administrative mark outs. A copy of the Final Report cover letter with the POA&M will be provided to the Inspector General of the Marine Corps by the CMC (LF).

## APPENDIX D

### ENVIRONMENTAL TRAINING REQUIREMENTS

MCO P5090.2A chapter 5 requires each installation and Marine Corps Forces Reserve to prepare a specific Comprehensive Environmental Training and Education Program (CETEP) plan that details the number of personnel subject to identified Federal, State, local and Marine Corps environmental training requirements. Environmental training is any form of instruction and information that is based upon, derived from, or guided by environmental laws, regulations, or environmental policies. Training derived from other laws, regulations, or policies (e.g., Department of Transportation regulations or safety policy) that is required to perform environmentally-related functions may also fall under this definition.

Table D-1 summarizes the most common Federal and Marine Corps environmental training requirements for personnel performing environmental job functions. When preparing CETEP plans, installations should evaluate all regulated operations conducted aboard the base or station against Table D-1 and State and local training requirements, including training incorporated into installation management plans (e.g., Integrated Natural Resources Management Plans, Stormwater Pollution Prevention Plans).

The CETEP plan should detail the specific strategies, courses, and training venues that will be used to cost effectively ensure that personnel receive the required training. In some cases, training may be sponsored by other offices on the installation (e.g., safety office, medical clinic). Installations performing unique environmental functions not listed in table D-1 should ensure personnel receive applicable required training.



Table D-1.--Training By Regulation		
Training Requirement	Regulation or Policy Driver	Who Must Be Trained
Resource Conservation and Recovery Act (RCRA) Generators	40 CFR part 262.34 40 CFR part 264.16 MCO P5090. 2B 9404.1.b (12), 9104.1.h (2)(j)	Personnel who generate, accumulate or handle hazardous waste (HW)
HW Accumulators	9104.1.h.(1) e	Personnel who operate the process generating the HW
RCRA Treatment, Storage and Disposal Facility (TSDF) Operators	40 CFR part 262.34 40 CFR part 264.16	Personnel assigned to work at a permitted TSDF
Waste Military Munitions	29 CFR part 1910.120 29 CFR part 1926.65	Personnel involved with handling, storage, transportation, and treatment of Waste Military Munitions
Regulated Infectious Waste	29 CFR part 1910.1030(g)(2) BUMED INST 6280.1A	Personnel with occupational exposure to infectious waste
Hazardous Waste Operations and Emergency Response (HAZWOPER) for Emergency Response - Awareness Level & Refresher	29 CFR part 1910.120 (q)(6)(i)	Personnel who are likely to witness or discover a release of a hazardous substance and may initiate emergency response by notifying authorities
HAZWOPER General Site Workers & Refresher	29 CFR part 1910.120 (e)	Personnel assigned to work at an uncontrolled Installation Restoration site

Table D-1.--Training By Regulation		
Training Requirement	Regulation or Policy Driver	Who Must Be Trained
HAZWOPER Emergency Response Operations & Refresher	29 CFR part 1910.120 (q) (6) (ii)	Personnel who respond to hazardous material (HM) releases in a defensive fashion without trying to stop the release
HAZWOPER Emergency Response Technician/Specialist and Refresher	29 CFR part 1910.120 (q) (6) (iii)	Personnel responding in an aggressive action to HM spills so they may plug patch or stop the release of HM
HAZWOPER TSDF Operations and Refresher	29 CFR part 1910.120 (p) (7) (i)	Personnel assigned to work at a permitted TSDF
HAZWOPER Emergency Response On Scene Incident Commander	29 CFR part 1910.120 (q) (6) (v)	Personnel who will control and/or manage spill response operations
Post Emergency Response Worker	29 CFR part 1910.120 (q) (11)	Personnel that may perform spill cleanup operations after the threat of release is stabilized or eliminated
Oil Pollution Facility response training	40 CFR part 112.20 33 CFR part 154.1050 MCO P5090.2A 7104.3d, 7104.8a(3)	Facility personnel with responsibilities for oil spill response and cleanup as detailed in the Facility Response Plan (FRP)

Table D-1.--Training By Regulation		
Training Requirement	Regulation or Policy Driver	Who Must Be Trained
Oil Pollution Facility response exercises	40 CFR part 112.21c 33 CFR part 154.1055 MCO P5090.2A, 2B 7104.8 b (2), 7203.2	Facility owners or operators who must develop a program of facility response drills/exercises as detailed in the FRP
Spill Prevention Control and Countermeasures (SPCC) discharge prevention training	40 CFR part 112.7(f) MCO P5090.2A 7102.2c (5), 7104.8 a (2)	Employees involved in the operation and maintenance of equipment that may discharge oil as identified in the installation SPCC plan
Hazardous Materials (HAZMAT) Transportation employee training	MCO 4030.40B	Personnel involved in the preparation for, and transportation or shipment of, HM/HW
HAZMAT Transportation - Modal Specific Training	MCO 4030.40B 49 CFR part 172.700 49 CFR part 175.20(b) 49 CFR part 176.13(b) 49 CFR part 177.800(c)	Personnel involved in the transportation or shipment of HM/HW by air, vessel or motor vehicle
Clean Air Act (CAA) - Motor Vehicle Heating, Venting, and Air Conditioning (HVAC) Mechanics	40 CFR part 82.30(b) MCO P5090.2A 6302.15	Personnel servicing motor vehicle air conditioning equipment
CAA - HVAC Appliance Service, Repair, Disposal Personnel	40 CFR part 82.150(b) MCO P5090.2A 6302.15	Personnel servicing, maintaining, repairing or disposing of air conditioning equipment

Table D-1.--Training By Regulation		
Training Requirement	Regulation or Policy Driver	Who Must Be Trained
Asbestos Training - Supervisors/ Worker/Contractors & Refresher	40 CFR part 763.99 Subpart E, Appendix C MCO P5090.2A 6302.15	Personnel, supervisors and contractors engaged in maintenance activities that disturb friable asbestos
Asbestos Inspector & Refresher	40 CFR part 763.99 Subpart E, Appendix C MCO P5090.2A 6302.15	Personnel who inspect for Asbestos Containing Building Material (ACBM) in schools or public commercial buildings
Asbestos Project Designer & Refresher	40 CFR part 763.99 Subpart E, Appendix C MCO P5090.2A 6302.15	Personnel who design projects that may disturb friable ACBM in a school or commercial building
Asbestos Project Monitor & Refresher	40 CFR part 763.99 Subpart E, Appendix C MCO P5090.2A 6302.15	Personnel who monitor abatement projects and serve as building owners representative
Asbestos for Maintenance Custodial staff	29 CFR part 1920.1001 (j)(7)(i) MCO P5100.8 16006.d (4), Table 16-1	Maintenance and custodial personnel who may come in contact with ACBM

Table D-1.--Training By Regulation

Training Requirement	Regulation or Policy Driver	Who Must Be Trained
Federal Insecticide, Fungicide, and Rodenticide Act - Applicators	40 part CFR 170.130 (a)(3) DOD 4150.7M DOD 4150.7P MCO P5090.2A Ch 14	Personnel who apply or supervise the application of pesticides and contract Quality Assurance Evaluators
Safe Drinking Water Act (SDWA) training, certification and licensing	MCO P5090.2A 16201.5	Personnel who operate drinking water systems
Hazard Communications	29 CFR part 1910.1200(h)(1) DOD INST 6050.5 MCO P5100.8 f18002.2f	Employees who may be exposed to hazardous chemicals under normal operations conditions or in foreseeable emergencies
Hazardous Chemicals-Laboratories	29 CFR part 1910.1450 (a)	Personnel engaged in the laboratory use of hazardous chemicals
Bloodborne/Infectious Pathogens Exposure	29 CFR part 1910.1030 (a) MCO P5100.8 21002.2	Personnel who may be exposed to blood or other potentially infectious materials
Environmental General Awareness	MCO P5090.2A Chap 5	All United States Marine Corps (USMC) personnel
Commanding Officer/Commanding General (CO/CG) and Senior Executive Service (SES) Education	MCO P5090.2A Chap 5	CO/CGs and SES
General Pollution Prevention Awareness Training	MCO P5090.2A 15203	All USMC personnel

Table D-1.--Training By Regulation		
Training Requirement	Regulation or Policy Driver	Who Must Be Trained
Specific Pollution Prevention Training	MCO P5090.2A 15203	Personnel whose job responsibilities require training in Emergency Planning & Community Right to Know Act Toxic Release Inventory reporting and pollution prevention planning and implementation
National Environmental Policy Act	MCO P5090.2B 12104	Personnel with environmental planning responsibilities
Natural Resources Law Enforcement training	MCO P5090.4 2c & Section III	Personnel engaged in conservation law enforcement
Natural Resource personnel training	32 CFR part 190.5c(2) MCO P5090.2A.4	Personnel who manage Natural Resources
Military Occupational Specialty (MOS) 8056 Training	MCO P5090.2A Ch 5 MCEul 1200	Uniformed Marines managing HM/HW, primarily at the unit level and desiring the secondary MOS 8056
Systems Approach to Training	MCO P5090.2A Chap 5	Personnel designated as the CETEP Coordinator
Curriculum Development	MCO P5090.2A Chap 5	Personnel designated as CETEP Coordinator & developing curriculum > 4 hours in length or computer based courses

Table D-1.--Training By Regulation		
Training Requirement	Regulation or Policy Driver	Who Must Be Trained
Environmental Management	MCO P5090.2A Chap 5	Personnel designated as CETEP Coordinator
Environmental Instructor	MCO P5090.2A Chap 5	Personnel assigned as environmental instructors